

# Agenda

## Item #9



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: November 19, 2012

Re: Request for Waiver of Penalty by the National Association of Social Workers  
Maine PAC

---

The National Association of Social Workers Maine PAC is a political action committee which was required to file a campaign finance report on October 26, 2012. The PAC filed it three days late on October 29, 2012. Based on the amount of financial activity in the report and the number of days late, the Commission staff calculated the preliminary penalty to be \$21.76. The Commission staff sent a letter indicating a staff finding of violation and preliminary penalty to Susan Lamb, the Executive Director of the Maine Chapter of the NASW on October 29, 2012. The Commission staff received a written request for a waiver on October 30, 2012.

The PAC requests a waiver because:

- Ms. Lamb, who is primarily responsible for filing finance reports, became sick with a head cold on Thursday, October 25, 2012.
- Her cognition was impaired so she left work without reading email. She took a cold medicine for the next three days.

- When she returned to work, Ms. Lamb saw an email from Commission staff reminding her to file, as well as a “late notice” sent on October 29, 2012, and filed the report.

**Staff Recommendation**

While the Commission staff appreciates Ms. Lamb’s straightforward, earnest description, we recommend not granting a waiver. For purposes of consistency, we suggest that waivers based on medical conditions be limited to unforeseen events that are moderately serious or severe. Also, the amount of the penalty is relatively small. So, although we are personally sympathetic, we recommend assessing the preliminary penalty of \$21.76.

Thank you for your consideration of this memo.



N A S W

MAINE CHAPTER

National Association of Social Workers

RECEIVED

OCT 30 2012

Maine Ethics Commission

...the power of social work

October 29, 2012

Jonathan Wayne  
Maine Ethics Commission  
135 State House Station  
Augusta, Maine 04333

Dear Mr. Wayne,

I am requesting that the fee for late filing be waived because I was not aware that I was late until this morning, when I promptly filed my report. Here is the mitigating situation that may qualify as an emergency:

I came to work on Thursday with a head cold. My cognition was definitely impaired so I left work shortly without reading email and noting the reminders that the commission kindly sends. I took Nyquil for the next three days and nights. I think this can be referred to as NWWUIN, otherwise known as not working while under the influence of Nyquil.

Truth be told, I had a laptop computer with me, and if I had simply turned it on at any time during the day Friday, I would have seen the reminder. I then could have filed at least an incorrect report from home that could have been amended today once I was reunited with the PAC checkbook. I did not do this because I slept through Friday. The rest of the weekend was pretty much the same. This morning when I finally did read my email at work, I immediately complied with this requirement. I do not know if sickness is a qualifying emergency, but I do know that I was sick.

Respectfully submitted,

Susan Lamb, Executive Director

Maine Chapter, NASW

**Marett, Matthew**

---

**From:** Marett, Matthew  
**Sent:** Monday, October 29, 2012 8:35 AM  
**Subject:** LATE REPORT NOTICE

Our records indicate that your PAC has not yet filed an 11-Day Pre-General report which was due Friday, October 26, 2012. Penalties for late reports accrue by the day, so please file this report as soon as possible. Reports can be filed online by going to [www.mainecampaignfinance.com](http://www.mainecampaignfinance.com), clicking the "filer login" button on the top right of the page and entering the PAC's user code and password. Please call me at (207) 287-6221 or email me at [Matthew.Marett@Maine.gov](mailto:Matthew.Marett@Maine.gov) with any questions.

Sincerely,

Matt Marett  
Maine Ethics Commission  
PAC, Party & Lobbyist Registrar  
(207) 287-6221

## Marett, Matthew

---

**From:** Susan Lamb [naswmaine@naswmaine.org]  
**Sent:** Monday, October 29, 2012 12:51 PM  
**To:** Marett, Matthew  
**Subject:** RE: late report penalty

Thank you, Matt. I wrote the letter. Now I'm headed home....  
Susan

Susan Dore Lamb  
Executive Director  
N.A.S.W. Maine Chapter  
P.O. Box 5065  
Augusta, ME 04332  
207-622-7592  
[naswmaine@naswmaine.org](mailto:naswmaine@naswmaine.org)

**From:** Marett, Matthew [<mailto:Matthew.Marett@maine.gov>]  
**Sent:** Monday, October 29, 2012 11:18 AM  
**To:** [naswmaine@naswmaine.org](mailto:naswmaine@naswmaine.org)  
**Subject:** late report penalty

Susan,

Please see the attached preliminary penalty letter. Let me know if you have any questions. I hope you feel better soon!

Best,

Matt Marett  
Maine Ethics Commission  
PAC, Party & Lobbyist Registrar  
(207) 287-6221



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

October 29, 2012

**By Email and Certified Mail**

Ms. Susan Lamb  
National Association of Social Workers Maine PAC  
P.O. Box 5065  
Augusta, ME 04332

**Re: Penalty for late filing of 11-Day Pre-General report**

Dear Ms. Lamb,

The National Association of Social Workers Maine PAC was late in filing its 11-Day Pre-General report. The report was due by 11:59 p.m. on October 26, 2012, but was not filed until October 29. Under the Commission's statutes, the late filing of a report by a PAC triggers an enforcement process. Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PAC's history of violations, the commission staff has determined that a penalty of \$21.75 is owed. (Please see attached penalty matrix for the calculation).

The PAC may request that the Commission waive the violation or penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice (or attempted delivery by the U.S. Post Office). The request must contain a full explanation of the reasons the committee filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting. Please direct waiver requests to Jonathan Wayne, c/o Ethic Commission, 135 State House Station, Augusta, ME 04333.

The Commission may waive the penalty if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that the committee made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

The staff requests that the committee pay the preliminary penalty within 14 days of the date of this letter if it does not intend to request a waiver. Please use the payment receipt below when mailing payments. Payments may also be made online at [www.maine.gov/ethics](http://www.maine.gov/ethics) by clicking on the "penalty payment" link. Please call me at (207) 287-6221 or send me an email at [Matthew.Marett@Maine.gov](mailto:Matthew.Marett@Maine.gov) if you have any questions.

Sincerely,

Matthew Marett  
PAC, Party & Lobbyist Registrar

Enclosure: Payment Receipt and PAC penalty matrix

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

PHONE: (207) 287-4179

FAX: (207) 287-6775

Payment Receipt

Mail payment to:

The Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333.

Make checks payable to: "Treasurer, State of Maine."

Ms. Susan Lamb	Violation:	Late 11-Day Pre-General Report
National Association of Social Workers Maine PAC		
P.O. Box 1065	Amount Due:	\$21.75
Augusta, ME 04332		
	Payment ID:	1923

---



<b>Committee Name:</b>	National Association of Social Workers	<b>Report Title:</b>	11-Day Pre-General
		<b>Due Date:</b>	October 26, 2012
<b>Previous Violation(s):</b>	N/A	<b>Filed Date:</b>	October 29, 2012

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%  
 For the second violation, 3%  
 For the third and each subsequent violation, 6%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	\$25.00
X .01	Percent prescribed for first violation	Percent Prescribed:	1%
\$25.00	One percent of total contributions		\$7.25
X 2	Number of calendar days late	Number of days late:	3
		Total penalty accrued:	\$21.76
\$50.00	Total Penalty		

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

**MAXIMUM PENALTIES**  
 21-A M.R.S.A. Section 1062-A(3)  
 \$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is one-fifth of the amount reported late.

## 21-A M.R.S.A. §1020-A. FAILURE TO FILE ON TIME

**1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[ 1995, c. 483, §15 (NEW) .]

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD) .]
- B. An error by the commission staff; [1999, c. 729, §5 (AMD) .]
- C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD) .]
- D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD) .]

[ 2009, c. 190, Pt. A, §13 (AMD) .]

**3. Municipal campaign finance reports.** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[ 2011, c. 389, §22 (AMD); 2011, c. 389, §62 (AFF) .]

### **4. Basis for penalties.**

[ 2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§4 (RP) .]

**4-A. Basis for penalties.** The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]
- B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]
- C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF) .]